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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues.	Rulemaking 13-11-005 (Filed November 14, 2013)

REPLY COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON EVALUATION, MEASUREMENT, AND VERIFICATION AND ENERGY SAVINGS PERFORMANCE INCENTIVE ISSUES

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I. INTRODUCTION

The Office of Ratepayer Advocates ("ORA") respectfully submits these reply comments pursuant to the Administrative Law Judge's *Ruling Seeking Comment on Evaluation, Measurement, and Verification and Energy Savings Performance Incentive Issues* ("Ruling") issued on June 8, 2016. The Ruling seeks party comment on a Commission Staff White Paper ("White Paper") recommending revisions to existing Energy Efficiency ("EE") Evaluation, Measurement and Verification ("EM&V") and Energy Savings Performance Incentive ("ESPI") processes in light of the Commission's new rolling portfolio concept and recent legislation, including Senate Bill ("SB") 350 and Assembly Bill ("AB") 802.

In the discussion below, ORA recommends the following:

- The Commission should require that all entities administering EM&V activities adhere to a ten percent administrative/fixed cost cap.
- The Commission should not increase the EM&V budget allocation now and should evaluate whether or not to reduce EM&V budgets in subsequent EM&V cycles.
- The Commission should maintain the independence and reliability of ratepayer-funded evaluation studies and should not allocate responsibility to Program Administrators ("PA") for the Savings Measurement and Verification and Portfolio and Sector Optimization evaluation priorities in order to avoid the introduction of substantial conflicts of interest.

II. DISCUSSION

A. Program Administrators fail to present evidence that current administrative costs are reasonable and limited to expenditures that are truly required to carry out their EM&V responsibilities

In its White Paper, the Commission's Energy Division staff ("Commission Staff") recommends a ten percent cap on EM&V administrative/fixed costs[1] in line with the ten percent cap on administrative costs for EE programs that the Commission adopted in D.09-09-047.[2] In Opening Comments, Southern California Edison Company ("SCE") argues that the cap is "arbitrary" and that administrative activities "are necessary to support the quality, accuracy, and timeliness of EM&V studies."[3] As the Commission noted in Decision ("D.") 09-09-047, some administrative costs are indeed necessary and reasonable but the Commission has a duty to ensure that those costs are "reasonable and limited to those overhead and labor costs that are truly required."[4] ORA's Opening Comments showed that in 2015 Commission Staff administrative costs were only $0.05 for every dollar budgeted for studies, while Investor-Owned Utility ("IOU") administrative/fixed costs were $0.60 for every dollar budgeted for studies.[5] In 2015 the IOUs' nominal spend on administration was nearly three times more than the Commission's Staff, even though Commission Staff oversees a budget nearly three times as large as the IOUs.[6] The difference in EM&V administrative costs between Commission Staff and the IOUs is not minor. IOU administrative costs are orders of magnitude greater than Commission Staff costs and indicate that IOU administrative costs are unreasonable.

San Diego Gas & Electric Company/Southern California Gas Company ("SDG&E/SoCalGas") contend that there is no clear understanding of what "administration/fixed cost would be for EM&V" and therefore "a more thorough

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[1] *White Paper Regarding Evaluation, Measurement & Verification and Energy Savings Performance Incentive Issues in 2016 and Beyond* at p. 9.

[2] D.09-09-047 Ordering Paragraph 13 at pp. 368-369.

[3] SCE Opening Comments at p. 6.

[4] D.09-09-047 at p. 51.

[5] ORA calculations based on ORA Opening Comments at p. 9, Figure 1.

[6] ORA calculations based on ORA Opening Comments at p. 9, Figure 1.

discussion prior to adoption of a cap should be conducted."[7] However, as the White Paper noted, Commission Staff and IOU EM&V staff developed a consistent method for tracking costs, and following the April 2016 monthly EM&V coordination meeting, the parties agreed to a consistent set of definitions for administrative costs in order to have comparable figures.[8] SDG&E/SoCalGas do not propose an alternate set of definitions in their Opening Comments other than to note that "a large portion" of EM&V staff time is "allocated to consulting with program managers on results and implication of EM&V studies" and that "[t]his work is akin to program design and monitoring." ORA notes that to the extent that IOU EM&V staff spend much of their time on program design and monitoring, some IOU staffing costs may not be appropriately considered EM&V administration. Instead these staffing costs should be booked to EE program budgets as direct implementation costs and included in program costs subject to Commission-approved cost-effectiveness tests.

The IOUs do not assert that their recorded EM&V administrative costs are limited to expenditures that are truly required to carry out their assigned EM&V responsibilities. The Commission should therefore adopt the White Paper proposal and require that all entities administering EM&V activities adhere to a ten percent administrative/fixed cost cap.

B. Parties agree that current total EM&V budgets are sufficient and that future EM&V costs are expected to decline

In Opening Comments, a majority of parties including ORA agreed that the current EM&V budget allocation of four percent of total program costs was adequate to carry out Commission-approved EM&V priorities. In addition, several parties noted that EM&V budgets are expected to decrease in the near future. PG&E considers the current

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[7] SDG&E/SoCalGas Opening Comments at p. 8.

[8] White Paper at p. 8.

EM&V budget "sufficient to meet existing and new EM&V responsibilities."[9] SCE "anticipates a reduction in EM&V budgets rather than an increase."[10] NRDC notes that a substantial portion of 2013-2015 EM&V funds remain unallocated and "[i]t does not make sense to increase the budget for EM&V if large amounts of funding for the 2013-15 portfolio (which ended six months ago) remain unallocated."[11] SDG&E/SoCalGas advocate for a zero-based budget with a budget cap set at the current budget allocation.[12] National Association of Energy Service Companies ("NAESCO") also argues for a "zero-based 'bottoms up' analysis of EM&V needs" and expects EM&V costs to decline substantially due to the Normalized Metered Energy Consumption ("NMEC") measurement approaches mandated by AB 802.[13] California Energy Efficiency Industry Council ("CEEIC") too expects that EM&V budgets should decline in the long-run due to cost-savings from the shift to NMEC measurement approaches.[14]

Given broad party agreement on current EM&V budget needs and future budget expectations, the Commission should not increase the EM&V budget allocation now and should evaluate whether to reduce EM&V budgets in subsequent EM&V cycles.

C. Reassigning PA responsibility for both Savings Measurement and Verification and Portfolio and Sector Optimization evaluation priorities would introduce substantial conflicts of interest into EM&V and undermine the independence and reliability of ratepayer-funded evaluation studies

The Ruling solicited party comments on the White Paper proposal to reassign roles and responsibilities for current evaluation priorities and to establish a new evaluation

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[9] PG&E Opening Comments at p. 10.

[10] SCE Opening Comments at p. 6.

[11] NRDC Opening Comments at p. 3.

[12] SDG&E/SoCalGas Opening Comments at p. 7.

[13] NAESCO Opening Comments at p. 3.

[14] CEEIC Opening Comments at pp. 3-4.

priority of Portfolio and Sector Optimization. In Opening Comments, several parties argued that PAs should have a greater role in the Savings Measurement and Verification priority devoted to measuring program impacts in response to AB 802 and new NMEC measurement approaches.[15] PG&E additionally proposes adding PAs to the list of parties responsible for the Savings Measurement and Verification priority.[16] CEEIC does not recommend any changes to the assignments of priorities, but notes that "some elements will see an emphasis shift from the Commission to PAs" in response to AB 802.[17]

ORA agrees with CEEIC that some activities and emphasis may shift in response to AB 802, but a change of assignments and responsibility for current evaluation priorities is unwarranted at this time. Savings Measurement and Verification priority encompasses impact evaluations of EE programs run by the PAs. Assigning PAs responsibility for measuring the impact of their own programs – programs on which the IOU PAs are paid shareholder incentives directly linked to evaluated energy savings – raises a substantial conflict of interest and risks biasing evaluation results, undermining the transparency and reliability necessary for EE measurement to be treated in an unbiased fashion. Undermining the reliability of the measurement of EE savings would be a major setback to the progress the Commission and the California Energy Commission have made in recent years in integrating EE into Long-Term Procurement Planning and the Demand Forecast. In addition, assigning PAs the responsibility for impact evaluation would undermine the clear separation between responsibility for program administration and implementation and responsibility for impact evaluation established in D.05-01-055.[18]

The White Paper also proposes a new evaluation priority focused on Portfolio and

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[15] PG&E Opening Comments at p. 5, SDG&E/SoCalGas Opening Comments at pp. 5-6, RMA Opening Comments at pp. 5-7.

[16] PG&E Opening Comments at p. 5.

[17] CEEIC Opening Comments at p. 5.

[18] D.05-01-055 at p. 112.

Sector Optimization. The evaluation priority would be established to assist Commission Staff in reviewing the effectiveness of existing EE programs and make recommendations in order to assist PAs in meeting sector and portfolio goals.[19] In Opening Comments, the IOU EM&V administrators argue that they should be given joint responsibility with Commission Staff for the Portfolio and Sector Optimization priority.[20] However, PAs already have primary responsibility for managing their portfolios and should be constantly assessing whether their portfolios are optimally constructed and what changes are required. The Commission Staff proposal for a new priority is premised on the need for a comprehensive, independent evaluation of whether PAs are in fact managing their portfolios optimally and to make recommendations for improvement when PAs are not. Giving PAs joint responsibility for this evaluation priority would undermine the independence of the evaluation. Rather, PA evaluations of portfolio and sector optimality would be entirely redundant with the primary activity – portfolio management – that is assigned to PAs.

The Commission should maintain the independence and reliability of ratepayer-funded impact evaluation studies and assessments of portfolio construction and should avoid the introduction of conflicts of interest in EM&V. Commission Staff should retain authority and responsibility for the Savings Measurement and Verification priority and should have the sole responsibility for the new Portfolio and Sector Optimization priority.

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[19] White Paper at pp. 1-3.

[20] SCE Opening Comments at p. 4, PG&E Opening Comments at p. 3, SDG&E/SoCalGas Opening Comments at p. 4.

III. CONCLUSION

For the foregoing reasons, ORA respectfully submits that the Commission should adopt the recommendations contained herein.

Respectfully submitted,

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